

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

SUSAN SISSOM

**Plaintiff,**

V.

**THE BANK OF NEW YORK MELLON  
FKA THE BANK OF NEW YORK, AS  
TRUSTEE FOR THE  
CERTIFICATEHOLDERS CWALT, INC.,  
ALTERNATIVE LOAN TRUST 2006-  
SERIES-18CB,**

### **Defendants.**

**Civil Action No.: 1:17-CV-00451**

## **BoNY'S NOTICE OF REMOVAL**

The Bank of New York Mellon f/k/a The Bank of New York, as Trustee for the Certificateholders CWALT, Inc., Alternative Loan Trust 2006-Series 18CB (**BoNY**) removes the action filed by Susan Sissom in the 423rd Judicial District of Bastrop County, Texas to the United States District Court for the Western District of Texas, Austin Division, pursuant to 28 USC §§ 1331 and 1441 for the reasons set forth below.

## I. STATEMENT OF THE CASE

On May 1, 2017, plaintiff commenced a cause of action in the 423rd Judicial District of Bastrop County, Texas styled *Susan Sissom v. The Bank of New York Mellon f/k/a The Bank of New York, as Trustee for the Certificateholders CWALT, Inc., Alternative Loan Trust 2006-Series 18CB*, and assigned Cause No. 423-4966.<sup>1</sup> Plaintiff seeks to enjoin the foreclosure sale of real property.<sup>2</sup> Plaintiff seeks injunctive and declaratory relief based on her allegations BoNY violated the dual

<sup>1</sup> See Plaintiff's Original Petition for Declaratory Judgment and Application for Temporary Restraining Order and Injunctive Relief (*pet.*), ex. 1.

<sup>2</sup> See pet. at ¶¶ 38-39.

tracking provisions of 12 C.F.R. 1024.41(g), Regulation X, by proceeding with foreclosure while she allegedly had a complete loss mitigation application pending.<sup>3</sup>

## **II. BASIS FOR FEDERAL QUESTION JURISDICTION**

Under the "well-pleaded complaint rule," federal question removal is appropriate "when a federal question is presented on the face of the plaintiff's properly pleaded complaint." *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987). This court has federal-question jurisdiction pursuant to 28 USC §§ 1331 and 1441 because plaintiff asserts violations of the Code of Federal Regulations.<sup>4</sup> The court has supplemental jurisdiction over the remaining state law claims, if any, because they "form part of the same case or controversy." 28 USC § 1337(a).

## **III. THE PROCEDURAL REQUIREMENTS HAVE BEEN SATISFIED**

Removal of this action is timely under 28 USC § 1446(b) as BoNY received notice the petition was filed fewer than thirty days ago. Notice has been sent to the state court regarding the removal of this action. Pursuant to 28 USC § 1446(a), a true and correct copy of all of the process, pleadings, and orders on file in the state court action, or sent by facsimile to defendants in the state court action are attached as **Exhibits 1-3**.

## **IV. CONCLUSION**

Plaintiff seeks relief for alleged violations of a federal statute; affirmatively raising a federal question. This court may exercise federal question jurisdiction over this action.

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<sup>3</sup> See *id.*

<sup>4</sup> See pet. at ¶¶ 26-28.

Date: May 12, 2017

Respectfully submitted,

/s/ C. Charles Townsend  
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**ATTORNEYS FOR BoNY, as Trustee**

**CERTIFICATE OF SERVICE**

I hereby certify that on May 12, 2017, a true and correct copy of the foregoing instrument was sent via certified mail, return receipt requested, and the court's electronic filing system as follows:

**VIA ECF & CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**  
**NO. 9414 7266 9904 2092 0123 93**

James Minerve  
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Buda, Texas 78610  
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*Plaintiff's Attorney*

/s/ Alysia N. Carlson  
Alysia N. Carlson